

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. _____

UNITED STATES OF AMERICA,)
Petitioner,)
v.) CERTIFICATION OF A
RICHARD S. GARCIA,) SEXUALLY DANGEROUS PERSON
Register Number 12977-081,)
Respondent.)

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby submits the attached Certification of a Sexually Dangerous Person pursuant to Title 18 U.S.C. § 4248(a).

Respectfully submitted, this 10th day of June, 2008

George E. B. Holding
United States Attorney

CERTIFICATE OF SERVICE

This is to certify that I have this 10th day of June, 2008, served a copy of the foregoing upon the Respondent in this action by placing the documents in an envelope marked as stated below, and providing it to FCC Butner staff to deliver the envelope in hand to:

Richard S. Garcia
Reg. No. 12977-081
FCI Butner

and on the same day served a copy of the foregoing by placing a copy in the U.S. Mail, addressed as follows:

Office of the Federal Public Defender
150 Fayetteville Street Mall
Suite 450
Raleigh, North Carolina 27601

/s/ Michael Bredenberg
Michael Bredenberg
Special Assistant U.S. Attorney
Civil Division

CERTIFICATION OF A SEXUALLY DANGEROUS PERSON

(1) I, Anthony A. Jimenez, am Chairperson of the Federal Bureau of Prisons (Bureau) Certification Review Panel, Washington, D.C. Pursuant to 28 C.F.R. § 0.97, the Director of the Bureau has delegated to me the authority to certify persons in Bureau custody as sexually dangerous, as authorized by 18 U.S.C. § 4248(a).

(2) Bureau records reflect the following: Inmate Richard S. Garcia, Register Number 12977-081, is in Bureau custody at the Federal Correctional Institution, Butner, North Carolina, in service of a 37-month term of imprisonment and a 36-month term of supervised release, following his conviction for Felon in Possession of a Firearm, in violation of 18 U.S.C. § 922(g)(1) (D. Utah) (Case No. 2:05-CR-00677-001-TS). His projected release date is June 12, 2008.

(3) Based on a review of his Bureau records, I certify he is a sexually dangerous person as defined by 18 U.S.C. § 4247(a)(5), and sexually dangerous to others as defined by 18 U.S.C. § 4247(a)(6). My certification is based on information found in Bureau records which includes, but is not limited to, the following:

(a) He previously engaged or attempted to engage in sexually violent conduct or child molestation as evidenced by his prior convictions for Attempted Lewdness and Offenses

Against a Minor, in the Third District Court, Salt Lake County, Utah (Case No. 981916458), for telephoning a fifteen-year-old girl and asking if she would perform fellatio on him, offering to perform cunnilingus on her, and stating that he wanted to have sexual intercourse with her. He subsequently called the victim's school, pretended to be the victim's father, and attempted to get her released from school by telling school officials that she had an appointment. He was also convicted of two counts of Attempted Unlawful Sexual Activity with a Minor, one count of Contributing to the Delinquency of a Minor, and one count of Illegal Acts in or About a School or University, in the Third District Court, Salt Lake County, Utah (Case No. 961024644), for twice having sexual intercourse with a fifteen-year-old girl, telling her that he wanted to have sex with her fourteen-year-old sister, calling the fourteen-year-old girl's school, pretending to be the girl's father, and asking that she be sent home from school. Additionally, he was convicted of Attempted Forcible Sex Abuse, in the Third District Court, Salt Lake County, Utah (Case No. 891007176), for approaching a woman with a knife, asking her personal questions, fondling her left breast, and blocking her exit when she attempted to leave;

(b) A limited psychological review indicated the following: Axis I diagnoses of Paraphilia Not Otherwise Specified (Hebephilia), Amphetamine Dependence in a Controlled Environment, Alcohol Dependence in a Controlled Environment, Cannabis Dependence in a Controlled Environment; Axis II diagnosis of Antisocial Personality Disorder;

(c) An initial assessment of him using two actuarial risk assessment instruments (Static-99 and Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR)) was conducted. These results, in addition to his prior offense conduct, a history of revocation or failure to meet the stipulations of conditional release, poor general self-regulation, and high potential for relapse of drug/alcohol use, indicate he will have serious difficulty refraining from sexually violent conduct or child molestation if released.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Anthony A Jimenez
Anthony A. Jimenez
Chairperson
Certification Review Panel
Federal Bureau of Prisons

12/19/2007
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. _____

UNITED STATES OF AMERICA,)
)
Petitioner,)
)
v.) ORDER
)
RICHARD S. GARCIA,)
Register Number 12977-081,)
)
Respondent.)

At the request of the Director of the Bureau of Prisons, the government has filed a Certification of a Sexually Dangerous Person pursuant to 18 U.S.C. § 4248, in order for this court to hold a hearing to determine whether the Respondent is a sexually dangerous person as defined by 18 U.S.C. § 4247(a)(5).

Respondent, having demonstrated eligibility for appointment of counsel at government expense, the Federal Public Defender IS DIRECTED to provide representation in this action.

The Court further determines that the Respondent is unable to pay the fees of any witness, and pursuant to Federal Rule of Criminal Procedure 17(b) the Clerk shall issue a subpoena for any witness necessary to present an adequate defense to the pending charge or charges.

The Court further ORDERS that the United States Marshal shall serve any subpoenas presented to him in this case by the office of the Federal Public Defender, and shall pay the appropriate fees and expenses to witnesses so subpoenaed.

Pursuant to 18 U.S.C. section 4247(b), the Court ORDERS the government to conduct a psychiatric or psychological examination of Respondent. Pursuant to this section, if the Respondent wishes to request an additional examiner, he shall request such by separate motion to this court.

The Court hereby notifies the parties that this case has been set for Hearing by videoconference at _____ AM/PM on _____. The hearing shall be held in Courtroom #2, Seventh Floor, of the Terry Sanford Federal Building, 310 New Bern Avenue, Raleigh, North Carolina.

This ____ day of _____, 2008.

W. EARL BRITT
Senior U.S. District Judge